IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 13800 of 2007

For Approval and Signature:

HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KALPESHKUMAR HASMUKHBHAI ALIAS DIPAKBHAI SONI AND OTHERS
Versus
STATE OF GUJARAT AND ANOTHER

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Appearance :
MR SUNIL M AGRAWAL for the Applicants
MR MR MENGDEY, ADDITIONAL PUBLIC PROSECUTOR for Respondent No.1
MR SR DIVETIA for Respondent No.2

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CORAM : HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 19/12/2007

ORAL JUDGMENT

1. **RULE**. Mr.M.R.Mengdey, learned Additional Public Prosecutor, waives service of notice of Rule on behalf of respondent No.1 – State of Gujarat and Mr.S.R.Divetia, learned advocate, waives service of

notice of Rule on behalf of respondent No.2.

2. Having regard to the facts of the case, with the consent of the learned advocates for the parties, the matter is taken up for hearing today.

3. By this application under Section 482 of the Code of Criminal Procedure, 1973 (the Code), the applicants seek quashment of the FIR registered vide C.R. No.I 38 of 2006 with Dariapur Police Station, Ahmedabad, the charge sheet submitted pursuant thereto as well as Sessions Case No.116 of 2007 pending in the Court of City and Sessions, Ahmedabad in respect of the said FIR.

4. The facts of the case are that respondent No.2, wife of applicant No.1 lodged a First Information Report against the present applicants alleging commission of offences punishable under Sections 498-A, 313, 506(1), 294-B, 114 of the Indian Penal Code as well as Sections 3 and 7 of the Dowry Prohibition Act, which was registered as Dariapur Police Station I C.R. No.38 of 2006. Upon completion of investigation, a charge sheet was submitted in the Court of the learned Metropolitan Magistrate, Court No.10, Ahmedabad, which was registered as Criminal Case No.5043 of 2006. The case was committed to the Court of City Sessions, Ahmedabad and was numbered as Sessions Case No.116 of 2007.

5. In response to the issuance of notice, respondent No.2 Reetaben Kantibhai Soni has filed an affidavit-in-reply wherein it has

been stated that after filing of the F.I.R., the family members gathered and due to intervention of elder members of the family, the matter has been amicably settled between the parties and a family suit for dissolution of marriage under Section 13-B of the Hindu Marriage Act, 1955 was filed with mutual consent in which decree of divorce is passed by the Family Court on 09.07.2007. It is further stated that now onwards no disputes between the parties remain pending and that she has no objection if the present petition is allowed by quashing the complaint and all consequent proceedings arising out of the said complaint filed by her.

6. Mr.S.N.Divetia, learned advocate for respondent No.2 has reiterated what has been stated in the affidavit-in-reply. Both the learned advocates for the petitioner as well as respondent No.2 have jointly submitted that the FIR and subsequent proceedings be quashed in the interest of justice. This Court has also heard the learned Additional Public Prosecutor.

7. The Supreme Court, in the case of ***B.S.Joshi v. State of Haryana,*** (2003)4 SCC 675 has held as follows:

> *"13. The observations made by this Court, though in a slightly different context, in G. V. Rao v. L.H.V. Prasad and others ((2000) 3 SCC 693) are very apt for determining the approach required to be kept in view in matrimonial dispute by the Courts, it was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young*

couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly extent which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about re-oproachment are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different Courts.

14. There is no doubt that the object of introducing Chapter XX-A containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XXA of Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

8. Examining the facts of the present case in the light of the principles enunciated by the Supreme Court in the decision cited hereinabove, it is apparent that the said decision would be applicable on all fours to the present case. In these circumstances, in view of the fact that an amicable settlement has been arrived at between the parties, the ends of justice would best be served if the FIR being Dariapur Police Station I C.R. No.38 of 2006 and all subsequent proceedings including proceedings of Sessions Case No.116 of 2007 pending in the Court of City Sessions, Ahmedabad are quashed.

9. For the foregoing reasons, the application succeeds and is accordingly allowed. The FIR registered vide C.R. No.I 38 of 2006 with Dariapur Police Station, Ahmedabad and subsequent proceedings, including proceedings of Sessions Case No.116 of 2007 pending in the Court of City and Sessions, Ahmedabad are hereby quashed. Rule is made absolute accordingly.

(H.N.DEVANI, J.)

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